

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 2, 6-7, 32 and 38-40 are currently being amended.

Claims 5 and 37 are requested to be canceled without prejudice or disclaimer.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 2-4, 6-7, 10-33, 35-36, 38-40 and 42 are now pending in this application.

Summary of Claim Rejections:

Claims 2, 4-7, 10-14, 17-19, 24-27, 32-33, 36-38, 40 and 42 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 7,020,304 to Alattar et al. (hereinafter “Alattar”) in view of U.S. Patent No. 7,289,304 to Brunk et al. (hereinafter “Brunk”).

Claims 3, 15 and 16 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Alattar in view of Brunk and further in view of U.S. Patent No. 6,912,010 to Baker et al. (hereinafter “Baker”).

Claims 20-23 and 28-31 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Alattar in view of Brunk and further in view of U.S. Patent Publication No. 2002/0054089 to Nicholas et al. (hereinafter “Nicholas”).

Claim 35 was rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Alattar, in view of Brunk, in view of U.S. Patent No. 6,785,815 to Serret-Avila et al. (hereinafter “Serret-Avila”) and further in view of U.S. Patent No. 6,915,422 to Nakamura.

Claim 39 was rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Alattar in view of Brunk and further in view of U.S. Patent No. 6,487,301 to Zhao.

Applicant respectfully traverses these rejections and requests reconsideration of the present application in view of the reasons that follow.

Discussion of Claim Rejections:

Applicant has amended independent claim 2 to include features that were substantially recited in claims 5 and 37. Applicant has similarly amended claims 10 and 32 to include features that were substantially recited in claim 37. Accordingly, claims 5 and 37 are requested to be canceled. Amended claim 2 now recites:

2. A method of tracking a broadcast program, comprising:
 inserting a unique watermark value into a program to be broadcast;
 deriving a fingerprint value based on said program's content;
 storing said program's watermark value and associated fingerprint value;
 detecting any watermark value inserted in a given broadcast program;
 deriving a fingerprint value based on said given broadcast program's content;
 creating a database in which the unique watermarks(s) and their associated derived fingerprint values for a plurality of unique programs to be broadcast are stored;
 registering the unique watermark and associated derived fingerprint value for said program to be broadcast in said database;
 and
 redundantly identifying said given broadcast program, said redundant identification comprising:
 comparing any detected watermark value with said database of registered watermark values;
 if a detected watermark value matches a registered watermark value from said database of registered watermark values, cross-checking said fingerprint value derived from said given broadcast program against said database of registered fingerprints; and
 if said derived fingerprint matches a registered fingerprint from said database of registered fingerprints, a first identification information associated with said registered watermark value is compared with a second identification

information associated with said registered fingerprint to assess a status of said broadcast program.

As described in Applicant's previous responses, the pending claims are, at minimum, distinguishable from the disclosure of Alattar and Brunk in that these references describe using the watermarks to carry information additional to (and different from) what is conveyed by the content signatures. See, for example, Brunk, col. 7, lines 4-50. In accordance with embodiments of the present invention, as recited in claim 2, redundant identification of a content comprises comparing any detected watermark value with said database of registered watermark values. If a detected watermark value matches a registered watermark value from said database of registered watermark values, cross-checking said fingerprint value derived from said given broadcast program against said database of registered fingerprints. Finally, as recited in claim 2, if the derived fingerprint matches a registered fingerprint from said database of registered fingerprints, a first identification information associated with said registered watermark value is compared with a second identification information associated with said registered fingerprint to assess a status of said broadcast program. As such, amended claim 2 provides multiple levels of redundancy for identification of a content. This feature is neither taught nor suggested by Alattar and/or Brunk.

In rejecting claim 37, the Examiner argues that "a watermark and the content signature [of Brunk] have to have identification information present in order to determine whether or not they match." See Office Action dated February 18, 2009, page 14, second paragraph. Applicant respectfully disagrees with the Examiner's interpretations that Brunk performs any matching operations in the context of the present application.

Brunk merely describes that a watermark is used to determine who the owner of a song is, and the content signature is used to determine the name and version of the song. See Brunk, col. 7, lines 4-50. There are no teachings or suggestions in Brunk and/or Alattar that the information associated with the content signature is compared with the information associated with the watermark. Thus, the system that is described in Brunk fails to properly operate and/or identify the proper content, if a content is modified in each of the following four example scenarios: 1) watermarks are missing from the content, 2) fingerprints are not detected in the database, 3) watermarks are mis-decoded so that they identify a wrong content

owner, and/or 4) derived fingerprints falsely identify an incorrect version of the song. Due to redundant identification of the content, as recited in pending claim 2 and further described, for example, in Figure 4 and at pages 13-17 of the originally filed specification, each one of the above four example scenarios are properly detected. As such, the features of amended claim 2 are not taught, suggested or rendered obvious by Alattar, Brunk or any other reference of record. Accordingly, claim 2 is patentable

Claims 10 and 32 of the present application have been amended to recite similar features as claim 2 that correspond to redundant identification of a content. Accordingly, claims 10 and 32 are patentable for similar reasons as claim 2.

Applicant has also amended claims 6-7 and 38-40 to properly depend from claims 2 and 32, respectively.

As to dependent claims 3-4, 6-7, 12-31, 33, 35-36, 38-40 and 42, these claims each depend, either directly or indirectly, from one of allowable claims 2, 10 or 32. Further, none of the additional references (Nicholas, Serret-Avila, Nakamura and/or Zhao) cure the above-noted deficiencies of Alattar and Brunk. Accordingly, claims 3-4, 6-7, 12-31, 33, 35-36, 38-40 and 42 are patentable for at least that reason, as well as for other patentable features when these claims are considered as a whole.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit card payment instructions in EFS-Web being incorrect or absent, resulting in a rejected or incorrect credit card transaction, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under

37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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